vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3161 OF 2007

New Era Fabrics Pvt. Ltd. ... Petitioner

V/s.

Triveni Ram Sahdev Yadav & Ors. ... Respondent

Mr.M.P. Vashi for Petitioner
Mr.P.M. Mokashi for Respondent No.1

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 8, 2007**

P.C.:

. The petitioner has challenged the orders dated 20.9.2003, 9.6.2006 and 8.2.2007 passed by the Industrial Court. The order dated 20.9.2003 has been passed by the Industrial Court in complaint (ULP) No.675 of 2000. The Industrial Court declared that the petitioner had indulged in an unfair labour practice under Item 9 of Schedule IV of the MRTU & PULP Act as it had not paid the statutory minimum wages to the respondent workman. The Industrial Court has directed payment of Rs.36,395/- with interest @ 6% per annum from the date of filing the complaint till the payment. In addition an amount of Rs.38,929.38 was payable as difference in the minimum wages. The petitioners were also directed to pay minimum wages from August 2003 onwards as provided under the Minimum Wages Act. As these amounts were not paid, an application was filed

u/s 50 of the MRTU & PULP Act for recovery. This application was decided on 8.2.2007 and a certificate for recovery was issued to the Collector.

2. In the meantime, after the order dated 20.9.2003, an application was filed for restoring the complaint by the petitioner some time in March 2004. That application was dismissed on 9.6.2006 by the Industrial Court. The Industrial Court found that the petitioner had not shown sufficient cause for condoning the delay in filing the restoration application. The Industrial Court has found that the petitioner was aware of the pending complaint despite the change in its law officers. In these circumstances, the restoration application was also dismissed.

3. The petitioner now submits that all the orders are illegal in view of the fact that an interim order was passed in Writ Petition No.2865 of 1996. That order directs the the petitioners to reinstate the workman and to give him light work and to pay him salary prevalent to that category as on 1.7.1996. This order has subsequently merged in the final order in Writ petition No.2865 of 1996. The statement of the petitioner’s advocate that the petitioner would continue the workman in employment in view of the interim orders passed by this Court has been recorded in the order of June 29,

2004. Thus, the respondent workman has been working in the services of the petitioner from 1.7.1996. As regards the backwages, the petition has been disposed of yesterday i.e., August 7, 2007 and the Reference has been remanded to the Labour Court only to ascertain what is the amount of backwages which should be paid to the workman.

4. In the present complaint, the workman has sought payment of minimum wages from 1996 onwards i.e., after he was reinstated. The Industrial Court has directed the payment of Rs.36,395/- with interest on the basis that the workman was entitled to minimum wages for the light work entrusted to him after 1.7.1996 upto the filing of the complaint and a further amount of Rs.38,929.38. This period is not the same as the period for which the backwages are to be computed as sought to be made out by the learned advocate for the petitioner.

5. The petitioners did not dispute this amount at any point of time and, therefore, no relief can be granted to the petitioners especially after a recovery certificate has already been issued. Petition rejected.